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Memorandum to: Assistant Secretary John Berry
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From: Frank S. Scott, Jr. *FS*

Subject: Comments on S2899 and HR4904

The subject bills were prompted by S.J. Res. 19 dated January 21, 1993, which offers an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii. Events in Hawaii indicate that S.J. Res. 19 has not served as the healing gesture for which it was undoubtedly intended but has brought about divisiveness among the people of Hawaii. One of the major problems is that sovereignty proponents interpret S.J. Res. 19 as a statement of facts concerning the overthrow and an admission of guilt on the part of the U.S. government that requires restitution to Native Hawaiians for the presumed loss of their lands and culture.

The subject bills call for a thorough congressional investigation of the role, if any, played by the United States during the 1893 overthrow of the Hawaiian Monarchy. Although requested, no such investigation was made as a basis for S.J. Res. 19 and many of the whereas statements in that bill are subject to interpretation and may be of questionable accuracy. S. J. Res. 19 appears to rely heavily on the investigation of Congressman James Blount who opposed the revolution and refused to interview members of the Committee of Safety who sponsored the revolution. President Cleveland's December 18, 1893 report to Congress appears to have been based on the Blount report.

A congressional investigation of the 1893 overthrow is particularly crucial because the ambiguity of events allow for differing interpretations as to the role the U. S. Government played in the overthrow. As historical documents clearly indicate, the U. S. Government in Washington had no knowledge of the overthrow until after the fact, which required transmission of word by ship to San Francisco and then by telegraph to Washington. The U. S. Government had at no time or under any president or congress developed a plan to overthrow the Kingdom of

Hawaii. The primary basis for assuming any U. S. responsibility in the overthrow relates to the actions of U. S. Officials and other residents of Hawaii. In this respect, the following actions may lead to varying interpretations:

(1) There is evidence that U.S. Minister to Hawaii John Stevens favored a change of government because of the unwillingness of the Queen to comply with the constitution. But he indicated to the Committee of Safety who precipitated the overthrow that he would play no role in their proposed revolutionary actions but would consider recognizing a new government if such were to take place. But even though a U. S. Minister he had no orders from the U.S. Government in Washington to take the stand he did. Thus it appears that Stevens may have acted out of order but this should not reflect on the U.S. Government that was unaware of the situation.

(2) Stevens made himself vulnerable to revisionists by asking Captain Wiltse of the U.S. Boston to send a limited number of troops into Honolulu to protect American lives and property knowing that a revolution might take place. For those attempting to prove U.S. involvement in the overthrow there may be a basis for assuming that Stevens and Wiltse had ulterior motives to defend the Committee of Safety in the even of a possible military uprising. On the other hand there is no proof that troops were brought in for other than the purpose indicated by Stevens.

(3) The McKinley government indicated prior to the revolution that it would be favorable to annexing Hawaii if the Hawaiian Government should at some time request such an action. But this is irrelevant to the overthrow of January, 1893.

(4) The 13-member Committee of Safety that instigated the overthrow consisted of 7 subjects of the Kingdom, 4 American citizens and 2 European subjects. The committee of Safety acted entirely on its own except for a request of support from Minister Stevens, which was refused. The Queen had also asked for help from Stevens and received an identical refusal. There is evidence that the Committee of Safety did not have the backing of the majority of native Hawaiians who reportedly supported the Queen. But the overthrow was successful without bloodshed. What happened 107 years ago cannot, of course, be changed regardless of the nature of the overthrow.

Probably the majority of countries in the world have endured so called illegal overthrows, but agreement or disagreement toward recognition is based on the government in power at the time of the decision.

It appeared to me as I viewed the August 28 to September 1, 2000, hearings on bills S2899 and HR 4904 in Honolulu that a large segment of the native population, perhaps a majority, opposed the bills. Many of those who did support the bills appeared to have done so under the false hope that the legislation would eventually lead to a separate nation and not a nation within a nation for native Hawaiians.

It seems evident that passage of S2899 and HR 4904 would not result in the intended followup of S.J. Res. 19 "to provide a proper foundation for reconciliation between the United States and Native Hawaiian people." To the contrary, the testimony at the hearings indicated that the bills would likely increase the divisiveness between groups of native Hawaiians and between native Hawaiians and other ethnic groups in Hawaii.

A thorough investigation by concerned U.S. government agencies and congress would indicate that there are major differences between the status and needs of native Hawaiians and American Indians. These differences should be thoroughly researched prior to any further action on S2899 and HR4904. Among the major problems are the differences between the historical relationship of the U.S. government to native Hawaiians as compared to American Indians and the differences in the social structure of native Hawaiians as compared to American Indian tribes. Most so called Native Hawaiians do not constitute a tribe but a varied mixture of ethnic groups. Blood quantum will be a very serious problem in any legislation relating to native Hawaiian sovereignty permitting nation to nation contact with the U.S. Government. Who gets the special nation status and who doesn't?

A further very serious problem with the subject bills is the intent to evade or bypass the State Government of Hawaii. Such an action could cause irreparable damage to the state and a severe reduction in its ability to function. There is some belief that the state cannot effectively administer assistance programs for Native Hawaiians because of the U.S. supreme court decision in the Rice-Cayetano case which ruled that all state citizens should be able to vote in elections of the

Office of Hawaiian Affairs. This leads to the contention that Native Hawaiians may have to deal directly with the U.S. Government. But there is no evidence that the Supreme Court decision would render the Office of Hawaiian Affairs less effective.

The assumption that all ceded lands are the exclusive property of native Hawaiians rather than all Hawaii citizens is arbitrary at best. A minority of the citizens of Hawaii were all or part native Hawaiian at the time of the overthrow. The Kingdom rather than individual native Hawaiians controlled the lands that are now called ceded and it was not the policy of the Kingdom, with some exceptions, to restrict benefits to so called native Hawaiians.

Native Hawaiians should certainly receive the utmost consideration in State and U.S. Government policies with respect to benefits. But there may be more meaningful approaches to attain such goals than through the subject bills. One possibility is to combine, expand and improve the many existing programs. A comprehensive study far beyond the content of the subject bills is called for. A rush to get the subject bills through congress without considering alternatives and without additional comprehensive research on all issues involved could be a disservice not only to Native Hawaiians but to all of the people of Hawaii. Assuming that Native Hawaiian Sovereignty is imperative, it must take a form that is least divisive to all of the citizens of Hawaii. Otherwise, implementation could lead to a disaster for all parties concerned. It is not evident that enough attention has been given to this issue and to the type of federal legislation that might bring it about.